

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1178

Introduced by Senator Speier

January 13, 2006

An act to amend Sections 1202.8 and 3004 of, *and to add Section 290.04 to*, the Penal Code relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1178, as amended, Speier. Sex offenders: electronic monitoring.

Existing law requires persons placed on probation by a court to be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

This bill would require ~~a person~~ *an adult male* who is convicted of an offense that requires him ~~or her~~ to register as a sex offender, ~~and who is determined to be at a high risk of reoffending,~~ *to be assessed for the risk of reoffending using the STATIC-99 assessment. Every adult male who is assessed to have a moderate-high or high risk of reoffending would be required* to be electronically monitored while on probation, unless the ~~chief probation officer~~ *court* determines that such monitoring is unnecessary for a particular person. ~~Because the bill would impose new duties on local agencies, the bill would impose a state-mandated local program.~~

Existing law authorizes the parole authority to require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices.

This bill would require ~~a person~~ *every adult male* who is convicted of an offense that requires him ~~or her~~ to register as a sex offender, ~~and who is determined to be at a high risk of reoffending, to be assessed for the risk of reoffending using the STATIC-99 assessment. Every adult male who is assessed to have a moderate-high or high risk of reoffending would be required~~ to be electronically monitored while on parole, unless the Department of Corrections and Rehabilitation determines that such monitoring is unnecessary for a particular person.

The bill would specify that the monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology.

The bill would require the Department of Corrections and Rehabilitation, in consultation with specified experts, to establish a training program for probation officers, parole officers, and any other persons authorized by law to perform risk assessment. The bill would require probation departments and regional parole officers to designate persons within their organizations to attend a yearly training and to train others within their organizations who are designated to perform risk assessments. Because the bill would impose new duties on local agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 290.04 is added to the Penal Code, to
2 read:
3 290.04. On or before January 1, 2008, the Department of
4 Corrections and Rehabilitation, in consultation with the
5 Department of Mental Health and experts in sex offender risk
6 assessment and the use of actuarial instruments in predicting sex

offender risk, shall establish a training program for probation officers, parole officers, and any other persons authorized by law to perform risk assessment. The department shall use an expert in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk to conduct periodic training. Probation departments and regional parole officers shall designate persons within their organizations to attend a yearly training and shall train others within their organizations who are designated to perform risk assessments as required or authorized by law.

SECTION 1.

SEC. 2. Section 1202.8 of the Penal Code is amended to read:

1202.8. (a) Persons placed on probation by a court shall be under the supervision of the county probation officer who shall determine both the level and type of supervision consistent with the court-ordered conditions of probation.

(b) ~~A person~~ Every adult male who is convicted of an offense that requires him or her to register as a sex offender pursuant to Section 290, ~~and who is determined to be at a high risk of reoffending,~~ shall be assessed for the risk of reoffending using the STATIC-99 assessment. The assessment shall be performed by a probation officer who has been trained pursuant to Section 290.04. Every adult male who has a risk assessment of moderate-high or high shall be electronically monitored while on probation, unless the ~~chief probation officer~~ court determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology.

(c) Within 30 days of a court making an order to provide restitution to a victim or to the Restitution Fund, the probation officer shall establish an account into which any restitution payments that are not deposited into the Restitution Fund shall be deposited.

SEC. 2.

SEC. 3. Section 3004 of the Penal Code is amended to read:

3004. (a) Notwithstanding any other law, the parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of

1 electronic monitoring or supervising devices for the purpose of
2 helping to verify his or her compliance with all other conditions
3 of parole. The devices shall not be used to eavesdrop or record
4 any conversation, except a conversation between the parolee and
5 the agent supervising the parolee which is to be used solely for
6 the purposes of voice identification.

7 (b) Notwithstanding subdivision (a), ~~a person~~ *an adult male*
8 who is convicted of an offense that requires him ~~or her~~ to register
9 as a sex offender pursuant to Section 290, ~~and who is determined~~
10 ~~to be at a high risk of reoffending,~~ *shall be assessed for the risk*
11 *of reoffending using the STATIC-99 assessment. The assessment*
12 *shall be performed by a parole officer who has been trained*
13 *pursuant to Section 290.04. Every adult male who has a risk*
14 *assessment of moderate-high or high shall be electronically*
15 *monitored while on parole, unless the department determines that*
16 *such monitoring is unnecessary for a particular person. The*
17 *monitoring device used for these purposes shall be identified as*
18 *one that employs the latest available proven effective monitoring*
19 *technology.*

20 *SEC. 4. Section 1 of this act, which adds Section 290.04 to*
21 *the Penal Code, shall only become operative if Senate Bill 1128*
22 *of the 2005–06 Regular Session is not enacted on or before*
23 *January 1, 2007, or if Senate Bill 1128 is enacted but does not*
24 *add Section 290.04 to the Penal Code.*

25 ~~SEC. 3.~~

26 *SEC. 5.* If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.